

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

AECOM ENERGY & CONSTRUCTION, INC.,
Plaintiff,

v.

THE UNITED STATES OF AMERICA,
Defendant.

Case No. 20-2016 C

JOINT STATUS REPORT

Plaintiff AECOM Energy & Construction, Inc., formerly known as URS Energy & Construction, Inc., (“URS”) and Defendant the United States of America (“Government”) submit this Joint Status Report pursuant to the Court’s Order Extending the Scheduling Order Deadlines. *See* ECF No. 29.

This action arises out of two related Contracting Officer Final Decisions (“COFDs”) denying claims by URS for payment under a Cost Plus Incentive Fee contract to decontaminate and decommission (“D&D”) the Separations Process Research Unit (“SPRU”) facility, a 1950s-era U.S. Department of Energy (“DOE”) nuclear experimental site located in upstate New York. URS asserts that in the course of performing D&D work under the contract, DOE caused it to incur hundreds of millions of dollars of unreimbursed costs for which DOE is responsible. URS filed a complaint in December 2020 that includes claims for breach of contract, constructive changes, DOE-caused project delays, and differing and pre-existing site conditions, among other claims.

The parties are currently engaged in fact discovery. URS had substantially completed its document production as of September 30, 2022, in accordance with the then-operative scheduling order. *See* Sept. 30, 2022 Joint Status Report (ECF No. 24). Since that time, the

Government has continued to collect and produce documents, and the parties have continued to meet and confer concerning the sufficiency of the Government's collection and production efforts. *See* Sept. 30, 2022 Joint Status Report (ECF No. 24); December 29, 2022 Joint Status Report (ECF No. 25); March 29, 2023 Joint Status Report (ECF No. 26); May 18, 2023 Joint Motion to Extend Scheduling Order Deadlines (ECF No. 27).

Earlier this year, as a result of deficiencies in the way the Government had previously collected and processed documents, the Government agreed to recollect custodial email at the mailbox level, apply a set of agreed-upon search terms negotiated by the parties, and produce responsive emails with the assistance of an experienced e-discovery vendor. *See* March 29, 2023 Joint Status Report (ECF No. 26); May 18, 2023 Joint Motion to Extend Scheduling Order Deadlines (ECF No. 27). In the parties' May 18, 2023 Joint Motion, the Government indicated that it expected to complete document production by August 31, 2023. That production was supposed to include responsive documents from the Environmental Protection Agency and Naval Reactor custodians, in addition to Department of Energy custodians. On May 22, 2023, the Court issued an Order Extending the Scheduling Order Deadlines (ECF No. 29), which set the deadline for completion of document production as August 31, 2023. The Court declined to impose further discovery deadlines until the completion of document discovery; instead, it ordered the parties to file a joint status report on or before September 8, 2023, confirming that document production has been substantively completed and proposing a schedule of continued proceeding.

The Government requires additional time to complete its document production. Since the Court's May 22, 2022 Order, the Government has made twelve productions to the plaintiffs, consisting of nearly four million responsive documents in connection with the recollection of

DOE custodial emails at the mailbox level. The parties recently agreed to a revision to a small subset of the search terms that apply to the DOE mailbox collection effort and the Government will produce the documents for those revised search terms. The Government has finalized its collection of documents from the Environmental Protection Agency (EPA) and is close to finalizing its collection of documents from Naval Reactors and will produce responsive documents from those collections. The parties are in the process of negotiating search terms for the EPA documents and anticipate reaching an agreement regarding those terms within the next few days, which will impact the scope of that production.

The Government is reviewing the scope of its remaining production and expects to be able to propose a revised document production deadline within the next week. Once the parties reach agreement on the date by which the Government shall complete document production, the parties intend to jointly move for entry of a Scheduling Order identifying dates for completion of document production, fact discovery, expert discovery, dispositive motions, and trial. If the parties cannot come to an agreement on the date by which the Government must complete document production, the parties intend to, separately, move the Court for entry of a Scheduling Order that includes a date for the completion of the production of all Government documents.

September 8, 2023

Respectfully submitted,

/s/ Charles C. Speth

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